

REMARKS

At the outset, Applicants question whether the present Action is properly a Final Office Action in that the Examiner has not fully considered Applicants' arguments in that several fundamental aspects of Claim 1 were not considered. Applicants thus respectfully request that the finality of this Action be withdrawn, and if the Examiner disagrees with substantive aspects of the Applicants herein and in the previous Response that a new Final Office Action be issued.

Currently Claims 1-8 and 10-21 are pending in the Application. Claims 1-7 and 12-19 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Campbell and Manske. Claim 8 is finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Campbell and Manske, and further in view of Bealing et al. Claims 10-11 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Campbell and Manske, and further in view of Hickman et al. Claim 21 is finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Campbell and Manske, and further in view of Bernard. Applicants respectfully traverse the rejections as follows.

The Examiner has generally repeated her rejections from the first two Office Actions. Although she indicated that the Applicants' arguments filed August 6, 2004 have been "fully" considered, such full consideration has clearly not occurred in view of the Examiner's comments regarding Applicants' arguments. Applicants will discuss the Examiner's comments in the order presented in the Action.

- I. **Applicant states that the present invention is different from Manske who teaches a single use disposable temperature indicator (as opposed to the present invention). This argument is not persuasive because the limitation stating that the thermometer of the present invention is not disposable, is not stated in the claims.**

Manske clearly is a single use indicator whereas Applicants' maximum-minimum thermometer is reusable. The Applicants have added the word "reusable" to Claim 1 to clearly recite that the present maximum-minimum thermometer is **not** disposable and is not a single use thermometer. Applicants' support for this amendment can be found throughout the Specification. In fact, Applicants believe that the claim itself and the overall syntax thereof makes it clear that

the Applicants' thermometer is reusable. Specifically, the recitation "...wherein the indexes are moved by the transfer liquid into resting positions where maximum and minimum temperatures are read off the temperature scale..." would make it clear to one skilled in the art that the Applicants' thermometer is reusable. Clearly multiple indexes are moved to multiple positions where multiple temperatures are read off the temperature scale multiple times.

II. Applicant states that Manske is not capable of exhibiting both the high and low temperatures reaches during a particular time period. This argument is not persuasive because this limitation is not stated in the claims.

The recitation "wherein the indexes are moved by the transfer liquid into resting positions where maximum **and** minimum temperatures are read off..." clearly define exhibiting both the high and low temperatures.

III. Applicant states that there is no indication that the separating substance 14 of Manske is capable of moving an index. This argument is not persuasive because this limitation (that the transfer liquid moves the index) is not stated in the claims.

The recitation "wherein the indexes are moved by the transfer liquid" clearly recites that the transfer liquid moves the indexes.

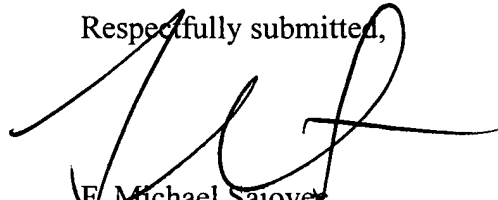
Thus the Examiner's apparent misconceptions about what Claim 1 recites has lead her to completely misapply Manske. Campbell does not teach that the transfer liquid is mercury free and does not teach the specific liquids. There is no suggestion or motivation to use a mercury-free solution. Such is not taught or suggested by the combination with Manske. Manske is a single use indicator that only indicates whether or not a maximum or minimum temperature was reached over a single period of time. Thus the only combination suggested by the combination of references cited by the Examiner is to arrive at a single use indicator using mercury as the transfer liquid.

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CONCLUSION

The concerns of the Examiner addressed in full, Applicants respectfully request withdrawal of the outstanding rejections and the issuance of a Notice of Allowance forthwith. The Examiner is encouraged to direct any questions regarding the foregoing to the undersigned, who may be reached at (919) 854-1400.

Respectfully submitted,

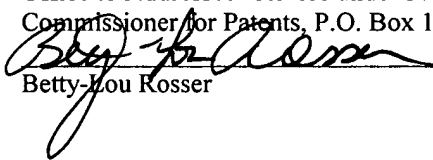


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